

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 5

A City employee, X, requests an opinion of the Ethics Commission in connection with the following facts:

X is an employee within the Department of Parks and Recreation. X's scope of work with the City involves advice to his immediate superior with respect to landscape architectural work on City and other beautification projects in which the City may be involved. X's immediate superior is within a high administrative level of the Department of Parks and Recreation. Much reliance is placed by X's superior upon advice given. X intends to set up a corporation which would be engaged in the activity of bidding competitively on State and Federal maintenance and consulting contracts. These contracts would involve the maintenance and landscaping of State highways.

In the opinion of the Ethics Commission a conflict of interest would exist if X, while a City employee in the position above described, would competitively bid upon State or City contracts involving the landscaping and maintenance of highways. This conclusion is based upon the following considerations:

- (1) We understand that recently the City and County of Honolulu and the State of Hawaii have entered into an agreement whereby the City would undertake, on a contractual basis, to maintain and landscape certain State Highways.
- (2) The foregoing contract also included the transfer of certain State employees to the county in which employees would be used to perform the functions on a county level which they were formerly performing as employees of the State.
- (3) It is evident that as demonstrated by the ability to readily transfer responsibilities and personnel from the State to the City there is great possibility of a rapport, between if not control of, employees of both governmental units.

We hold that under X's present position with the City, if X were to be given a maintenance contract, X would be in a position in his official capacity to approve, or otherwise pass upon, work which might be done in his private capacity.

In view of the foregoing, the Ethics Commission is of the opinion that a violation of the following provision of the City Charter would exist:

No appointive officer or employee may engage in outside employment in any business of professional activity which may impair his independence of judgment in the exercise of his official duties, or which might require or induce him to disclose confidential

information acquired by reason of his official position or which is otherwise inconsistent or incompatible with or which interferes with the proper discharge of his official duties.

Dated: Honolulu, Hawaii, February 14, 1968.

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